

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

MIDNIGHT MADNESS DISTILLING, LLC,

Debtor.

CHAPTER 11

CASE NO. 21-11750 (MDC)

**FIRST AND FINAL APPLICATION OF WM. F. COMLY & SON, INC.
FOR COMPENSATION FOR SERVICES RENDERED AS
MARKETING BROKER FOR THE DEBTOR**

Midnight Madness Distilling, LLC (the “Debtor”), by and through its undersigned counsel, hereby files this First and Final Application for Compensation as Marketing Broker, (the “Comly Fee Application”), and respectfully represents as follows:

1. On June 21, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”).
2. On June 22 2021, the Debtor filed the Application to Employ Wm. F. Comly & Son, Inc. as Marketing Broker Pursuant to 11 U.S.C. §§ 327 and 328 and Fed. R. Bankr. P. 2014 (the “Comly Employment Application”). The Comly Employment Application was approved by this Court on July 1, 2021.
3. Wm. F. Comly & Son, Inc. implemented a marketing program to promote the sale of the Assets and conducted the auction. A copy of the Invoice is attached hereto as Exhibit “A.”
4. Pursuant to the Comly Application, Comly agreed to be compensated as follows:
(i) \$6,500.00 for marketing; (ii) \$2,500.00 for labor and travel and (iii) 10% commission of the difference between the initial bid of the Existing Bidder and the final, successful bid (irrespective of whether the final, successful bid is made by the New Bidder or an Existing Bidder).

5. The Debtor hereby requests authority to pay Wm. F. Comly & Son, Inc., Marketing Broker, compensation in the amount of \$46,500.00, which represents their labor, marketing expenses and commission as follows:

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|-----------------------|-------------|
| a. Labor | \$2,500.00 |
| b. Marketing Expenses | \$6,500.00 |
| c. Commission at 10% | \$37,500.00 |

The Debtor and ETOH had entered into a stalking horse purchase price agreement for \$1,025,000. As a direct result of the marketing efforts of Comly and the Auction provided in the Bidding Procedures, the eventual highest and best offer was \$1,400,000, plus other consideration as provided in the Asset Purchase Agreement with Millstone Distillery LLC. This APA and Sale was approved by this Court on September 17, 2021. The Sale closed and the Purchase Price was paid. The difference between the initial bid of the Existing Bidder and the final, successful bid was \$375,000, thus yielding a 10% commission of \$37,500 as per requested herein.

PNC and the Debtor have previously discussed and contemplated this Fee Application. The funds to pay for this Fee Application have been specifically provided for in the Sale Order from the Sale Proceeds.

WHEREFORE, the Debtor respectfully requests the Court to enter the accompanying Order authorizing compensation to Wm. F. Comly & Son, Inc. in the amount of \$46,500.00 and grant such other relief as the Court deems appropriate.

FLASTER/GREENBERG P.C.

Dated: November 3, 2021

By: /s/ William J. Burnett

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